United Nations S/2002/1030

Security Council

Distr.: General
13 September 2002

Original: English

Letter dated 9 September 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 5 June 2002 (S/2002/632).

The Counter-Terrorism Committee has received the attached supplementary report from Ukraine submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

02-59470 (E) 011002 081002

Annex

Letter dated 3 September 2002 from the Permanent Representative of Ukraine to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

In response to your letter dated 28 May 2002, I have the honour to submit the requested information on the preliminary comments/questions agreed by the Counter-Terrorism Committee after the consideration of the report of Ukraine, submitted to the Committee on 26 December 2001, pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

I should be grateful if you would have the text of the present letter and its enclosure circulated as a document of the Security Council.

(*Signed*) Valeriy **Kuchinsky**
Ambassador
Permanent Representative

Enclosure

[Original: Russian]

Supplementary report on the measures taken in Ukraine to implement Security Council resolution 1373 (2001)

Security Council resolution 1373 (2001)

Subparagraph 1 (a)

The first paragraph of article 113 of the Constitution of Ukraine states that the Cabinet of Ministers is the highest body within the system of executive authority in Ukraine. The first paragraph of article 117 of the Constitution states that, within the limits of its authority, the Cabinet of Ministers issues rulings and regulations which are mandatory.

Decision No. 1800 of the Cabinet of Ministers of 28 December 2001 "on measures to implement United Nations Security Council resolution 1373 of 28 September 2001" is legally binding and its implementation is compulsory for all State bodies. The implementation of the decision by central and local bodies of the executive takes place in accordance with the legislation of Ukraine.

One section of the Criminal Code of Ukraine provides for the confiscation of financial and other economic assets in cases where there is evidence of their unlawful provenance or use. This sanction is applied in a number of articles in chapter VII of the Code, entitled "Offences in the area of economic relations", concerning such offences as smuggling (article 201), the illegal opening or use outside the borders of Ukraine of foreign currency accounts (article 208), the legalization (laundering) of financial and other assets acquired by criminal means (article 209), and in chapter IX, entitled "Offences against public security", which include gangsterism (article 257) and the theft, misappropriation or extortion of firearms, ammunition, explosive substances or radioactive materials, or the acquisition thereof by fraud or abuse of official position (article 262).

The seizure of terrorists' bank deposits in connection with the investigation of criminal offences, in accordance with the Act "on banks and banking activities", takes place only by order of the official investigator with authorization from the public prosecutor. The investigator issues the order to confiscate the deposit in accordance with the Code of Criminal Procedure of Ukraine. The establishment of a terrorist group or terrorist organization and material assistance with its activities is not subject to the sanction of confiscation of property. The investigator may therefore undertake the seizure of an account only with a view to meeting the requirements of a criminal trial which has already been scheduled or of a potential future civil case.

Another way of seizing terrorists' bank deposits is through a court order to that effect. Such an order may be issued on the basis of an application by the Minister of Justice or by a person designated by the Minister of Justice under the terms of the Agreement between Ukraine and the United States of America on mutual legal assistance in the investigation of criminal matters, of 22 July 1998, ratified by the Verkhovna Rada (Parliament) on 10 February 2000. On receipt of a request, the

Ministry of Justice and the Procurator General's office take immediate action on it or transfer it to the State body within whose competence it falls. Thus an application to seize bank deposits is transmitted to the judicial branch, which also decides whether it can be granted.

* * *

The draft Act "on combating terrorism" will become a standard legislative act regulating the juridical situation with regard to the fight against terrorism in Ukraine. The draft sets out the general legal and organizational foundations for the fight against terrorism and goes on to define the structure, functions and powers of the relevant bodies involved. The draft specifies that providing material support to a terrorist organization is itself a form of terrorist activity. It also provides for the confiscation of the property of an organization which has been identified in due and proper form as participating in terrorist activities.

The bill "on revisions to certain legislative instruments of Ukraine to reinforce efforts to combat terrorism" aims to reinvigorate the fight against terrorism in all its forms and manifestations and to implement the agreements reached during the Warsaw Conference on Combating Terrorism, held on 6 June 2001, as well as implementing Security Council resolution 1373 (2001). The bill provides for amendments and additions to the Acts "on operational investigations", "on the Security Service of Ukraine", "on banks and banking activities", "on the legal status of aliens" and "on refugees", thereby giving law-enforcement agencies and other State bodies scope, in fulfilling their obligations in combating terrorism, for taking measures to prevent and promptly identify persons planning to carry out terrorist acts. The measures would also prohibit the financing of terrorist activity and the entry into the territory of Ukraine of individuals who are involved or suspected of involvement in international terrorist groups or organizations.

At the time that these bills were being drafted by experts attached to the Cabinet of Ministers, it was decided that it would be sensible to combine them in one law under the general title "on combating terrorism". The bill provides for the establishment of the legal basis required for the reinforcement of the fight against terrorism in all its forms and manifestations in the context of the implementation of Security Council resolution 1373 (2001).

The latest version of the draft will be considered at one of the next meetings of the relevant committee of the Cabinet of Ministers.

The bill "on measures to prevent and counteract the legalization (laundering) of proceeds of crime" regulates the situation with regard to preventing and counteracting the entry into legal circulation of the proceeds of crime and to combating the financing of terrorism. Among other provisions, the bill defines the meaning of the term "financial operations", including those which may be "suspicious" and thus subject to monitoring by the law enforcement agencies.

At its meeting on 29 May 2002, the Cabinet of Ministers approved the bill and brought it for consideration before the Verkhovna Rada, which adopted it at first reading on 4 July 2002. The draft is currently being prepared for the second reading, with contributions from representatives of the Verkhovna Rada, the Cabinet of Ministers, the National Bank, the Association of Ukrainian Banks and experts. Consideration of the bill on second reading is planned for September 2002.

The Act "on banks and banking activities" provides for the possibility of seizing money and other assets of legal or physical persons held by a bank, by order of an investigator with authorization from the public prosecutor, by order of the responsible State official, where the law so provides, or by order of a court. It also gives the State monitoring bodies the right to halt payments from the accounts of legal or physical persons, where the law so provides.

The basic principles for establishing an effective system to prevent the laundering of proceeds of crime are contained in chapter 11 of the Act "on banks and banking activities". Article 63 of the Act ("Prevention of the legalization of proceeds of crime") provides a definition of the legalization of proceeds of crime, which is understood to mean the deposit into a bank of financial resources or other assets acquired as a result of the infringement of existing legislation, or the transfer of such resources or assets through the banking system of Ukraine, with a view to concealing the provenance of those resources or creating an impression that they are legal. For their part, the banks are obliged to implement appropriate measures aimed at prohibiting the use of the banking system of Ukraine for the purpose of legalizing illicitly acquired resources.

Under article 64 of the Act ("Obligation of identification"), banks are prohibited from entering into agreements with anonymous parties and are obliged to identify any person who carries out significant and/or suspicious financial transactions. Similar requirements concerning the identification of persons are contained in article 18 of the Act "on financial services and State regulation of financial service markets".

With a view to implementing these provisions of the Act "on banks and banking activities" concerning the prohibition on banks to enter into agreements with anonymous parties, the National Bank of Ukraine issued its Order No. 95, of 6 March 2001, "on the lapsing of the Instruction on the procedure for the opening and operation of coded accounts by physical persons (resident or non-resident) in foreign currency or the national currency of Ukraine", prohibiting banks from opening coded accounts for physical persons (resident or non-resident) in foreign currency or the national currency of Ukraine. This was given legislative support by one of the basic principles contained in the Forty Recommendations of the Financial Action Task Force on Money Laundering (FATF).

The National Bank of Ukraine, as the main body responsible for banking oversight, has established legal mechanisms for the identification of clients when they open bank accounts. In particular, the current Instruction on the opening by banks of accounts in the national or foreign currency, confirmed by Order No. 527 of the Bank, of 18 December 1998, regulates the question of identifying, at the time that an account is opened, physical and artificial persons engaged in enterprise activity, including fictitious enterprises. The Instruction establishes legal rules to prevent the use of fictitious enterprises in the process of laundering "dirty" money and also provides that transactions with accounts opened in banking institutions in Ukraine may be halted on the basis of decisions by the State taxation, judicial, law-enforcement or other bodies.

Pursuant to the Act "on The National Bank Of Ukraine" and for the purpose of implementing article 18 of the Act "on financial services and State regulation of financial service markets" and of compliance with articles 63-65 of the Act "on banks and banking activity", the Board of the National Bank of Ukraine approved by

Order No. 164 of 30 April 2002 the Procedural Recommendations on the development by Ukrainian banks of programmes to combat the legalization (laundering) of proceeds of crime. These Recommendations are intended to promote the introduction in banks of unified standards for the construction of systems to prevent the laundering of proceeds of crime, at the level of banking institutions, also to unify the procedure for the submission by banks to authorized bodies of information on significant and/or suspicious transactions and the persons who conducted them. The criteria according to which financial transactions conducted by clients of financial institutions may be classified as suspicious and unusual are defined by Resolution No. 700 of the Cabinet of Ministers of Ukraine, of 29 May 2002, "on definition of the criteria for classifying financial operations as suspicious and unusual".

With a view to defining the mechanism for implementing these and certain other legislative instruments regulating the combating of money-laundering, the above-mentioned draft act "on measures to prevent and counteract the legalization (laundering) of proceeds of crime" was drafted.

Thus the legislation in force constitutes an effective legal mechanism for combating terrorism in all its forms and manifestations, including prevention of the use of the national banking system for the financing of terrorist organizations.

* * *

Ukraine's national legislation fully meets the requirements of Security Council resolution 1373 (2001). The work currently under way, particularly the draft legislative acts referred to above, is aimed at perfecting the legislative and normative mechanism for implementing the provisions enacted with a view to stepping up the effort to combat terrorism in all its forms and manifestations.

* * *

Pursuant to Decree No. 532 of the President of Ukraine, of 19 July 2001, on "additional measures to combat the laundering of proceeds of crime", the Interdepartmental Working Group to study methods and trends in the laundering of money and other proceeds of crime was established by Order No. 386 of the Cabinet of Ministers of Ukraine, of 21 August 2001.

The main purposes of this interdepartmental Working Group are, in particular:

To conduct analytical studies in methods and trends in the laundering of money and other proceeds of crime;

To analyse the effectiveness of action taken in that sphere;

To develop proposals and recommendations for forestalling and preventing cases of laundering of money and other proceeds of crime.

On the initiative of this Group and with its direct participation, a number of organizational, practical and methodological activities have been conducted aimed at carrying out an analysis of national legislation and introducing proposals regarding bringing it into line with the Forty Recommendations of the Financial Action Task Force on Money Laundering (FATF):

With a view to regulating the processes of formation of subjects of entrepreneurial activity and preventing the appearance of fictitious entities, proposals have been developed regarding the introduction of changes and additions in the acts "on entrepreneurship", "on enterprises in Ukraine", "on business corporations" and "on external economic activity" and in the Criminal Code of Ukraine;

Resolution No. 1124 of 28 August 2001, adopted by the Cabinet of Ministers of Ukraine and the National Bank of Ukraine, on the introduction of the Forty Recommendations of FATF, and the Order of the Cabinet of Ministers of Ukraine on intensifying the effort to combat the legalization (laundering) of proceeds of crime, have been drafted:

An analysis has been conducted of the effectiveness of the action being taken by the law enforcement and financial structures to prevent and counteract the laundering of money and other proceeds of crime. The results of this analysis were discussed at an inter-departmental conference on 28 August 2001;

Work has been conducted on the implementation of the provisions of the relevant decrees of the President of Ukraine concerning cooperation and exchange of general information on suspicious operations by signing and ensuring the unconditional implementation of relevant bilateral agreements (fourteen such agreements have been concluded);

The draft programme for counteracting the legalization (laundering) of proceeds of crime for 2002, which was approved by Resolution No. 676 of the Cabinet of Ministers of Ukraine and the National Bank of Ukraine of 15 May 2002, has been drawn up and submitted for approval by the Government. The programme provides for the conduct of common measures by the State Tax Administration, the Ministry of Internal Affairs, the Security Service of Ukraine and other central executive organs in the area of preventing and detecting offences and halting financial machinations conducted in the sphere of privatization in order to acquire controlling blocks of shares in major industrial facilities, especially in the fuel and energy complex, and for an increase in the effectiveness of investigative activity to detect organized criminal groups which have corrupt links with power structures and engage in systematic previously planned criminal activity in the financial, banking and foreign trade spheres and in the conduct of conversion and of operations with weapons and narcotic substances, as well as operations associated with trafficking in people;

With the participation of the National Academy of Sciences of Ukraine, the activity of financial control and law enforcement agencies to prevent the legalization (laundering) of proceeds of crime has been analysed;

The results of an analysis of legislation from the standpoint of its conformity with the Forty Recommendations of FATF have been renewed, and a part was played in finalizing the draft act "on preventing and counteracting the legalization (laundering) of proceeds of crime";

An analysis has been conducted of the report drawn up by FATF on typologies, (methods) of money-laundering for 2000-2001 with a view to utilizing its results in practical activity.

In order to study and draw conclusions about trends in the laundering of money and other proceeds of crime, meetings of the Interdepartmental Working Group have reviewed the practice and results of the work of ministries and departments to prevent and counteract the legalization of illegally obtained income.

Thus the Interdepartmental Working Group to study methods and trends in the laundering of proceeds of crime is currently the main full-time body in which the law enforcement and the financial organs of the State are represented and which serves as a unifying link, coordinating the efforts of these organs in combating terrorism. The work of the Interdepartmental Working Group facilitates the formation of a unified policy of all State organs in counteracting the laundering of money and other proceeds of crime.

Subparagraph 1 (b)

The term "terrorist formation" is not used in the legislation of Ukraine. Pursuant to article 258, paragraph 4, of the Criminal Code of Ukraine, criminal punishment (deprivation of liberty from 8 to 15 years) is prescribed for "establishing a terrorist group or terrorist organization, leading such a group or organization or participating in it, and also for material, organizational or other promotion of the establishment or activity of a terrorist group or terrorist organization".

The concepts "terrorist group" and "terrorist organization" coincide in their content with the definitions of "criminal group" and "criminal organization" which are given in article 28 of the criminal code of Ukraine.

In addition, the draft "on combating terrorism" defines the following concepts:

"Terrorist organization" — a stable hierarchical association of three or more physical persons whose members or structural components engage by prior agreement in terrorist activity;

"Terrorist group" — an association of two or more physical persons who engage in terrorist activity.

Pursuant to article 8 of the Criminal Code of Ukraine, the application of the law extends to foreigners and stateless persons not permanently resident in Ukraine who have committed a crime beyond its borders. These persons incur criminal liability for the commission of crimes under national legislation in the cases provided for by Ukraine's international obligations. In addition, article 7 of the Criminal Code of Ukraine provides for the criminal liability of Ukrainian nationals and stateless persons permanently resident in Ukraine for crimes committed beyond the borders of the State.

Thus, when evidence is obtained that acts committed in Ukraine or beyond its borders which are not regarded as in essence criminal (for example, collecting funds or donations) are aimed at the attainment of terrorist objectives, criminal proceedings may be instituted under article 258 of the criminal code of Ukraine against the person who committed them.

Subparagraphs 1 (c) and 1 (d)

As indicated above, the resolutions and orders issued by the Cabinet of Ministers of Ukraine are binding on all organs or State.

The requirement of Security Council resolutions 1333 (2000) and 1390 (2002) with respect to the seizure of funds and other financial resources of Osama bin Laden and his associates is implemented in Ukraine in accordance with resolutions No. 351 of the Cabinet of Ministers of Ukraine, of 11 April 2001, "on the implementation of the United Nations Security Council resolution regarding the Taliban movement (Afghanistan)" and No. 749, of 1 June 2002, "on the implementation of the United Nations Security Council resolutions regarding Osama bin Laden, the Al Qaidah organization and the Taliban movement (Afghanistan)".

* * *

Resolution No. 1800 of the Cabinet of Ministers of Ukraine, of 28 December 2001, "on measures for the implementation of United Nations Security Council resolution 1373 of 28 September 2001", authorizes the central and local executive organs, inter alia, to take steps to seize accounts and other financial assets (to halt banking transactions on the accounts) or economic resources of persons who commit or attempt to commit a terrorist act or participate in the commission of terrorist acts, or promote their commission, and of organizations which are under the ownership or control of such persons, and also of persons who act on behalf or on the instructions of such persons and organizations.

On 17 December 1997 Ukraine ratified the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

In order to prevent the use of the national banking system to finance terrorism, the list of terrorist organizations and their leaders received through the Embassy of the United States of America in Ukraine has been sent to the National Bank of Ukraine.

As a result of the preventive measures taken, an active current account in United States dollars opened in August 1998 in the name of the Pakistani national Muhammad Zahir Shah (born 9 September 1976, place of birth Peshawar) was discovered in the Premier Bank joint stock commercial bank in Dnepropetrovsk. From January 2001 to 2 November 2001 no transactions were conducted on the account and as at 2 November 2001 the balance on the account was US$ 5. Current account in United States dollars No. 01064529, opened in December 1994 in the name of Amin Muhamad (passport No. SK-182n285109 issued by the Ministry of Internal Affairs of the Syrian Arab Republic in 1994) was discovered in the Joint Stock Commercial Industrial Investment Bank (head office in Donetz Region). From the time it was opened no transactions were conducted on the account, and the balance remains at US$ 100.

* * *

The Criminal Procedure Code of Ukraine is one of the normative instruments in force in Ukraine that regulate the blocking of accounts or assets in banks and financial institutions. Specifically, article 126 of the Code establishes the procedure for the bringing of a civil suit and possible confiscation of property. For the bringing of a civil suit and the possible confiscation of property, the investments, securities and other property of the accused, the suspect or persons bearing material responsibility under the law for his actions are seized, wherever such investments, securities and other property may be and property so seized is immobilized.

* * *

Resolution No. 1800 of the Cabinet of Ministers of Ukraine, of 28 December 2001, "on measures for the implementation of United Nations Security Council resolution 1373 of 28 September 2001", requires the organs of State power inter alia to prevent instances of the direct or indirect provision by physical and legal persons of any sources, financial assets or economic resources, or of financial or other relevant services, for use in the interests of persons committing or seeking to commit a terrorist act, promoting its commission or participating in it, or of organizations under the ownership or in the control of such persons, and also of persons and organizations acting on behalf or on the instructions of such persons.

Under the terms of article 35 of the Act "on insurance", supervision of insurance activity in Ukrainian territory is conducted by the Authorized Organ, which currently is the Ministry of Finance of Ukraine. The insurance legislation in force does not contain obligations and penalties with respect to vigilance and the submission by insurance agents to the Ministry of Finance of Ukraine of information for the purpose of preventing economic and financial deals in pursuit of terrorist or other criminal objectives.

* * *

If evidence is obtained that acts committed in Ukraine or beyond its borders which are not regarded as in essence criminal — such as the collection of funds or donations, including through charitable, religious or cultural organizations — are directed towards the attainment of terrorist objectives, the person committing them is liable to prosecution under article 258 of the Criminal Code of Ukraine.

See also the information under subparagraph 1 (b).

* * *

Combating terrorism in the context of the implementation of Security Council resolution 1373 (2001) calls for well-defined cooperation of the law enforcement and monitoring agencies in order tc trace and block financial and material resources for the purpose of preventing the conduct of financial transactions aimed at supporting criminal activity. A considerable role in the conduct of these measures is assigned in Ukraine to the Tax Service, which is guided in its work primarily by Act No. 509-XII of 4 December 1990 "on the State Tax Service in Ukraine", as amended and supplemented by subsequent acts, most recently No. 2922-111 of 10 January 2002. This Act defines the status of the Tax Service, its functions and the legal foundations for its activity. In particular, article XI of this Act establishes the rights of the Tax Service on the basis of which work is conducted to monitor compliance with the tax and currency legislation and to detect and stop economic crimes.

Article 9 of Act No. 2922-111 of 21 December 2000, "on the procedure for discharge of taxpayers' obligations towards budgetary and State special-purpose funds", specifies that the seizure of monetary and other economic resources in cases where it is established that they are of illegal origin or have been illegally used may take the form of administrative seizure.

See also the information under subparagraph 1 (a).

Subparagraph 2 (a)

The Criminal Code of Ukraine provides inter alia for punishment for the following crimes:

Establishment of a criminal organization for the purpose of committing a serious or particularly serious crime, as well as leadership of or participation in such an organization or participation in crimes committed by such an organization, and also the organization, leadership or promotion of a meeting (gathering) of representatives of criminal organizations or organized groups to draw up plans and conditions for the joint commission of crimes, the provision of materials for criminal activity or coordination of the actions of associations of criminal organizations or organized groups, are punished by deprivation of liberty for from five to 20 years. A person, apart from the organizer or leader of a criminal organization, who voluntarily provided information on the establishment of such an organization or participation in it and actively promoted its exposure, is exempted from criminal liability for the commission of this crime;

The recruitment, financing, equipping or training of mercenaries for use in armed conflicts of other States or violent actions aimed at overthrowing State power or violating territorial integrity, as well as the use of mercenaries in armed conflicts and actions, are punished by deprivation of liberty for from three to eight years. Participation without the permission of the competent organs of State power in armed conflicts of other States for the purpose of obtaining material compensation is punished by deprivation of liberty for from five to 10 years (art. 447, "mercenarism").

In addition, Ukraine has ratified the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

Paragraph 2 of Resolution No. 1800 of 28 December 2001, "on measures for the implementation of United Nations Security Council resolution 1373 of 28 September 2001", instructs the Ministry of Foreign Affairs, the Ministry of the Economy and European Integration Issues, the Ministry of Internal Affairs, the Ministry of Defence, the Ministry of Transport, the Ministry of Industrial Policy, the State Committee for Protection of the State Border, the State Customs Service, the State Company for the Export and Import of Military and Special-purpose Production and Services (Ukrspetseksport) to ensure, with the participation of the Security Service of Ukraine, compliance with the requirements regarding the prohibition of the provision of any form of support (active or passive) to organizations or persons involved in terrorist acts, inter alia by prohibiting the recruitment of members of terrorist groups and eliminating channels for the delivery of weapons to terrorists.

As a result of the conduct of coordinated measures, in 2001 alone the Ukrainian law enforcement agencies, with the cooperation of the security services of foreign States, discovered the location of and arrested 16 criminals involved in terrorist activity, 12 of whom were extradited.

* * *

Ukrainian legislation prohibits the establishment of militarized or armed formations not provided for by law, and gives a clear definition of them in article 260 of the Criminal Code of Ukraine.

Under the terms of part VI of article 17 of the Constitution of Ukraine, the creation and operation of any armed associations not envisaged by law is prohibited on the territory of Ukraine.

Under the terms of article 36, first paragraph, of the Constitution of Ukraine, Ukrainian nationals have the right to freedom of association in public organizations for the exercise and protection of their rights and freedoms, and for the satisfaction of their political, economic, social, cultural and other interests, with the exception of restrictions established by law in the interests of national security and public order.

On the basis of article 39, first paragraph, of the Constitution of Ukraine, nationals have the right to assemble peacefully without arms.

In accordance with the terms of article 37, first paragraph, of the Constitution of Ukraine, the establishment and activity of public associations whose actions are aimed at the undermining of the security of Ukraine are prohibited.

The act "on general military service" prohibits the introduction for workers, regardless of their place of work, of a uniform and distinguishing marks similar to the inform and distinguishing marks of members of the armed forces.

The wearing of military uniforms and badges by persons who are not entitled to do so is prohibited and gives rise to liability under the law.

The Criminal Code provides for criminal liability for the establishment of illegal paramilitary formations (formations with an organizational structure of a military type, i.e. single command, subordination and discipline, and in which military, combat or physical training is carried out) or armed formations:

- The establishment of illegal paramilitary formations or participation in their activities is punishable by imprisonment for a period of 2 to 5 years;
- The establishment of illegal armed formations or participation in their activities is punishable by imprisonment for a period of 3 to 8 years;
- The leadership of such formations, their financing and the provision to them of weapons, ammunition, explosives or military hardware are punishable by imprisonment for a period of 5 to 10 years;
- Participation within such formations in attacks on enterprises, establishments, organizations or the public is punishable by imprisonment for a period of 7 to 12 years;
- In the event that the actions indicated above give rise to casualties or other serious consequences, they are punishable by imprisonment for a period of 10 to 15 years.

Criminal liability for the actions indicated above is waived for former members of such formations if they voluntarily leave the formations and inform the State or local authorities of the existence of the formations.

Furthermore, on the basis of the Regulations on the procedure for the registration of the insignia of public associations, approved by Resolution No. 144 of the Cabinet of Ministers of 28 February 1993, registration is denied if the insignia:

- Are similar to military insignia which have already been registered and are used by military formations established in accordance with the law;
- Correspond to the badges of military formations;

– Are incompatible with the interests of the State;

– Violate the legislation in force in Ukraine.

Subparagraph 2 (b)

The Act "on the Security Service of Ukraine" establishes that the tasks of the Security Service of Ukraine include the prevention, detection, interdiction and investigation of crimes against the peace and security of mankind, terrorism, corruption and organized crime in the sphere of management and the economy, and also of other illegal activities which pose a direct threat to the vital interests of Ukraine.

The Act "on operational and search activities" provides that operational and search activities in the area of counter-terrorism are carried out by the appropriate operational subdivisions of the Security Service.

Pursuant to the Act "on the intelligence bodies of Ukraine", the intelligence bodies of Ukraine, along with other tasks, are entrusted with the task of participating in the control of international organized crime, including terrorism.

Pursuant to the Act "on local State administrations", local State administrations assist in the development of international cooperation in the sphere of counter-terrorism.

Moreover, the Criminal Code of Ukraine provides for punishment for the perpetration of terrorist acts, so that to a certain extent the control of such crimes falls within the competence of other law enforcement bodies.

In order to coordinate the activities of the executive bodies in the prevention of terrorist acts, a State-wide system of counter-terrorism has been established and is in operation, on the basis of the Anti-Terrorist Centre of the Security Service established in 1998 by a decree of the President of Ukraine of 11 December 1998.

By a decree of the President of Ukraine of 14 April 1999, the Anti-Terrorist Centre and its coordinating groups in the regional bodies are responsible for coordinating the activities of the executive bodies in the prevention and interdiction of terrorist acts against State officials, facilities vital to public welfare and particularly hazardous facilities, which threaten the life and health of a significant number of people.

The Anti-Terrorist Centre consists of the interdepartmental coordinating commission, the headquarters and the coordinating groups in regional organs of the Security Service.

The interdepartmental coordinating commission exercises overall control of the coordination of counter-terrorist activity within the framework of the Anti-Terrorist Centre, and if necessary, of specific counter-terrorist operations. Its permanent staff includes the deputy directors of the law enforcement bodies of the ministries and departments of Ukraine.

The Anti-Terrorist Centre, together with the Ministry of Foreign Affairs, also has the task of coordinating the fulfilment by the executive bodies of Ukraine's obligations in combating international terrorism.

At the same time, the programme for the implementation of the provisions of the Warsaw Conference on combating terrorism envisages that, in order to ensure that the work of the Anti-Terrorist Centre is in line with that of foreign and international counter-terrorist organizations, measures should be taken to improve its structure and methods by including the following entities in its work: the Ministry of Defence, the Ministry of Transport, the Ministry of Foreign Affairs, the Ministry of Health, the Ministry of Fuel and Energy, the Ministry of Industrial Policy, the State Tax Administration and the State Customs Service of Ukraine.

These measures have also been included in the bill "on combating terrorism".

* * *

The Cabinet of Ministers of Ukraine formulates policy and strategy in the sphere of counter-terrorism.

Thus, for example, work is under way in Ukraine to implement the Programme for the implementation of the provisions of the Warsaw Conference on combating terrorism (approved by Resolution No. 1694 of the Cabinet of Ministers of 14 December 2001) and Resolution No. 1800 of the Cabinet of Ministers of 28 December 2001, "on measures to implement United Nations Security Council resolution 1373 of 28 September 2001". These documents determine the priority directions and tasks of the executive bodies within their spheres of competence, taking into account the specific nature of their functional activity, with a view to the prevention and interdiction of terrorist acts.

The Anti-Terrorist Centre, which is a standing body within the Security Service, coordinates the work of the executive bodies in the area of the prevention of terrorist acts.

At the same time, the legislation of Ukraine provides for drawing on the capabilities of each executive body in combating certain types of terrorist acts, so as to facilitate their prevention and interdiction (for example, the above-mentioned provision of the Act "on the Security Service of Ukraine", referring to the tasks of the Security Service).

* * *

On the basis of the provisions of Security Council resolution 1373 (2001) and the decisions of the 2001 Warsaw Conference, additional work is currently being carried out on issues of the participation of Ukraine in various ways in international counter-terrorist structures, and also the development and intensification of cooperation with the security bodies and special services of countries of the near and far abroad, including cooperation in the sphere of early warning of anticipated terrorist acts.

Vital aspects of this cooperation have also been embodied in 36 bilateral agreements on cooperation with foreign partners concluded by the Security Service over the past 10 years. Moreover, within the framework of the Council of heads of security bodies and special services of the States members of the Commonwealth of Independent States, the leadership of the Security Service has signed protocols relating to efforts to combat international terrorism: on the procedure for the exchange of information on modes of entry, departure and travel of established members of terrorist formations in States of the Commonwealth of Independent States, and also the import of weapons, explosives and other supplies for terrorist

actions; on cooperation and coordination among the security bodies and special services of the States members of CIS; and on combating terrorist, separatist and other extremist activities carried out under religious, ethnic or political pretexts.

Subparagraph 2 (c)

The Act "on the legal status of aliens" of 4 February 1994 defines the legal status of aliens in Ukraine, confirms the basic rights, freedoms and obligations of foreign nationals and stateless persons residing or temporarily staying in Ukraine, and determines the procedure for resolving issues associated with their entry into and departure from Ukraine.

According to article 1 of the Act "on the legal status of aliens", aliens may be foreign nationals — persons holding the nationality of foreign States who are not nationals of Ukraine, or stateless persons — persons who do not hold the nationality of any State.

The basic principles governing the legal status of aliens in Ukraine are set forth in article 2 of this Act:

"Aliens shall have the same rights and freedoms and fulfil the same obligations as nationals of Ukraine, unless otherwise provided by the Constitution of Ukraine, the present act and other acts of Ukraine, and also international treaties to which Ukraine is a party.

Aliens shall be equal before the law, regardless of their origin, social and financial status, racial and ethnic affiliation, gender, language, attitude to religion, type and nature of occupation, and other circumstances.

If a foreign State imposes restrictions on the enjoyment of the rights and freedoms of nationals of Ukraine, the Cabinet of Ministers of Ukraine may take a decision to establish a corresponding procedure for the enjoyment of the rights and freedoms of nationals of that country in the territory of Ukraine. Such a decision shall enter into force after its publication. It may be repealed, if the grounds on which it was taken disappear.

The enjoyment by aliens of their rights and freedoms shall be without detriment to the national interests of Ukraine or to the rights, freedoms and legitimate interests of its nationals and other persons residing in Ukraine.

Aliens are required to respect and observe the Constitution and laws of Ukraine and honour the traditions and customs of the people of Ukraine."

In accordance with article 4 of the Act, aliens may immigrate to Ukraine under the prescribed procedure to a permanent place of residence or in order to take up employment for a fixed period, and also in order to stay temporarily in the territory of Ukraine.

An alien may receive permission to immigrate and may immigrate to a permanent place of residence if he:

- Has a legitimate means of livelihood in Ukraine;
- Is closely related (father, mother, child, brother, sister, spouse, grandfather, grandmother, grandchild) to a national of Ukraine;
- Is supported by a national of Ukraine;

– Provides support for a national of Ukraine;

– Or there are other circumstances envisaged by the laws of Ukraine.

Aliens who have immigrated to a permanent place of residence or to take up temporary employment receive certification for permanent or temporary residence, as applicable. The procedure for granting permission to immigrate, and also for issuing certification of permanent or temporary residence, and the solution of other issues associated with the immigration of aliens, are governed by the Immigration Act.

Aliens who are staying in Ukraine on other legitimate grounds are considered to be temporarily resident in Ukraine. They are required, under the procedure determined by the Cabinet of Ministers, to register their national passports or equivalent documents and to leave Ukraine after the completion of their stay.

If aliens staying temporarily in Ukraine change their place of residence, they are required to inform the internal affairs bodies with which their national passports or equivalent documents have been registered.

In accordance with the Constitution and legislation of Ukraine, aliens may be granted asylum (article 4 of the Act).

Aliens may receive refugee status on the grounds and under the procedure envisaged in the Act "on refugees". In accordance with the Constitution of Ukraine and the Act "on citizenship of Ukraine", aliens may also receive Ukrainian citizenship (become naturalized).

Chapter II of the Act contains provisions on the basic rights, freedoms and obligations of aliens. They include, in particular, the right to engage in investment and business activities, the right to work, the right to housing, property and personal rights, the right to participate in civic associations (although aliens may not be members of political parties of Ukraine), the right to travel in the territory of Ukraine and choose a place of residence, and so forth.

Aliens are not entitled to elect or be elected to State or local government bodies, or to take part in referendums. They are not subject to compulsory military service, and do not perform military service in the armed forces of Ukraine or other military formations established in accordance with the legislation of Ukraine.

The requirement for aliens and stateless persons to respect and observe the laws of Ukraine includes the obligation to comply with the rules for entry, stay, departure and transit in the territory of Ukraine, established in section III of the Act "on the legal status of aliens".

Aliens may enter Ukraine and depart from Ukraine on valid national passports or equivalent documents. They must receive an entry/exit visa under the prescribed procedure, unless otherwise provided in the legislation of Ukraine.

An alien is not permitted to enter Ukraine if:

– Denial of entry is in the interests of ensuring the security of Ukraine or protecting the public order;

– Denial of entry is necessary to safeguard the health and protect the rights and legitimate interests of nationals of Ukraine and other persons residing in Ukraine;

- When applying to enter Ukraine he provided deliberately false information or submitted falsified documents;
- His national passport or equivalent document or visa is forged, damaged or at variance with the prescribed model, or belongs to someone else;
- At the border crossing point in Ukraine he violated the rules for crossing the State border of Ukraine, the customs regulations or the health norms or rules, or failed to comply with legitimate requests of officials of the border forces or of customs or other bodies which exercise control on the State border;
- It has been established that he violated the legislation of Ukraine during a previous stay in Ukraine.

An alien is not permitted to depart from Ukraine if:

- An inquiry or preliminary investigation is being conducted in his regard or a criminal case is being heard by the court — until the proceedings have been completed;
- He has been sentenced for committing an offence — until he has served the punishment or has been exempted from punishment;
- His departure runs counter to the interests of ensuring the security of Ukraine — until the circumstances preventing his departure cease to exist.

Departure from Ukraine by an alien may be postponed until he has met his material obligations to individuals and legal entities in Ukraine.

Transit by aliens through the territory of Ukraine to the country of destination is permitted if they hold transit visas, unless otherwise provided by the legislation of Ukraine.

Section IV of the Act establishes the liability of aliens. Thus, article 29 of the Act provides that aliens who have committed offences or administrative or other violations have liability on the standard grounds.

Aliens who violate the prescribed procedure for staying in Ukraine, that is to say who reside without documents entitling them to reside in Ukraine, reside with invalid documents, fail to comply with the prescribed procedure for registration, travel, choice of place of residence or employment, fail to depart after the end of a stay, or fail to observe the Regulations for transit through the territory of Ukraine, are subject to measures in accordance with the legislation of Ukraine.

If an alien violates the legislation of Ukraine, and such violations do not entail administrative or criminal liability, his stay in Ukraine may be curtailed.

This period may also be curtailed if an alien no longer has a reason to stay on in Ukraine.

A decision to curtail the temporary stay of an alien in Ukraine is taken by the internal affairs bodies.

An alien who has committed an offence or an administrative violation, may be expelled from Ukraine, after serving the prescribed term of punishment or discharging an administrative penalty. The decision to expel him from Ukraine after he has served the prescribed term or fulfilled the administrative penalty is taken by the internal affairs body at the place where he is staying; the prosecutor is required

to report within 24 hours on the grounds for taking such a decision. By a decision of the internal affairs body, the expulsion of an alien from Ukraine may be accompanied by a prohibition on further entry into Ukraine for up to five years. The period of prohibition of entry into Ukraine is calculated from the date of issuance of such a decision. The procedure for the execution of a decision on prohibition of further entry into Ukraine is determined by the legislation of Ukraine.

In addition to the cases indicated above, an alien may be expelled from Ukraine by a decision of the internal affairs bodies or the Security Service — with notification by the prosecutor within 24 hours of the grounds for taking such a decision — if the alien's actions flagrantly violate the legislation on the status of aliens, or run counter to the interests of ensuring the security of Ukraine or protecting public order, or where necessary to safeguard the health or protect the rights and legitimate interests of nationals of Ukraine.

An alien is required to leave the territory of Ukraine within the period indicated in the expulsion decision, but no later than 30 days after the adoption of such a decision. In the event of the adoption of a decision to expel an alien from Ukraine, his visa is immediately annulled and his other documents according the right to stay in Ukraine are confiscated. Aliens who avoid departure are subject to being sentenced by the prosecutor to detention and forced expulsion. Detention is permitted only for the period necessary for expulsion.

A decision of the internal affairs bodies or the Security Service to expel an alien from Ukraine may be appealed in court. An appeal halts the implementation of a decision on expulsion, except in cases where immediate expulsion is required in the interests of ensuring the security of Ukraine or protecting public order.

Expulsion of aliens is carried out by the internal affairs bodies.

Aliens who are subject to expulsion are required to defray the costs associated with the expulsion under the procedure established by law. If such aliens do not have the resources to defray the costs associated with their expulsion from Ukraine, the expulsion is carried out at the expense of the State.

Individuals or legal entities who have invited or received such aliens, arranged their illegal entry, residence, employment or assisted them in avoiding departure at the end of their stay have to defray the costs to the State for expelling the aliens, under the procedure established by law.

Section V of the Act provides that if an international treaty to which Ukraine is a party establishes other rules than those set forth in this Act, the rules of the international treaty shall apply.

The provisions of this Act are without prejudice to the privileges and immunities established by the legislation of Ukraine and international treaties which are granted to members of diplomatic missions and representatives of consular establishments of foreign States in Ukraine, and also other such persons.

Subparagraphs 2 (d) and (e)

The Criminal Code contains provisions on extraterritorial jurisdiction. Article 258 of the Criminal Code has extraterritorial application. Nationals of Ukraine and stateless persons residing permanently in Ukraine who have committed offences beyond its borders are subject to criminal liability under the Criminal Code, unless

otherwise provided by international agreements which the Verkhovna Rada has agreed to make binding (art. 7).

If the persons indicated above have incurred criminal liability outside Ukraine for committing offences, they may not be prosecuted for the same offences in Ukraine.

Furthermore, under the terms of article 8 of the Criminal Code of Ukraine foreigners and stateless persons not permanently resident in Ukraine who have committed crimes beyond its borders incur liability under the Criminal Code in cases provided for in international agreements or if the said persons have committed particularly serious crimes pursuant to the Criminal Code against the rights and freedoms of Ukrainian citizens or against the interests of Ukraine.

Subparagraph 2 (f)

Pursuant to paragraph 6 of Resolution No. 1800 of the Cabinet of Ministers of Ukraine "on the implementation of United Nations Security Council resolution 1373 of 28 September 2001", of 28 December 2001, the Ministry of Justice, the Ministry of the Interior and the Security Service of Ukraine are responsible for providing legal assistance in instituting criminal proceedings relating to counter-terrorism.

Under the terms of article 8 of the European Convention on the Suppression of Terrorism, ratified by Ukraine on 17 January 2002:

> "1. Contracting States shall afford one another (...) mutual assistance in criminal matters in connection with proceedings brought in respect of the offences mentioned in Article 1 or 2. The law of the requested State concerning mutual assistance in criminal matters shall apply in all cases. Nevertheless this assistance may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.
>
> "2. Nothing in this Convention shall be interpreted as imposing an obligation to afford mutual assistance if the requested State has substantial grounds for believing that the request for mutual assistance in respect of an offence mentioned in Article 1 or 2 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons.
>
> "3. The provisions of all treaties and arrangements concerning mutual assistance in criminal matters applicable between Contracting States, including the European Convention on Mutual Assistance in Criminal Matters, are modified as between Contracting States to the extent that they are compatible with this Convention."

Subparagraph 2 (g)

The Criminal Code of Ukraine establishes liability for use of counterfeit or forged documents:

> 1. Forgery of a certificate or other paper that is issued or certified by a company, institution, organization, Ukrainian entrepreneur, private notary, auditor or other person empowered to issue or certify such papers and to

accord rights or waive obligations, whether for use by the forger or by another person, or the sale of any such paper, the manufacture of counterfeit seals, stamps or forms of companies, institutions or organizations irrespective of ownership, or the manufacture for the same purpose or sale of any other official seals, stamps or forms, is punishable by a fine equivalent to a maximum of 70 times the minimum income before tax, by rigorous imprisonment for up to six months', or by up to three years' restriction of liberty.

2. The acts specified above, if committed repeatedly or by a group of persons on the basis of prior agreement, are punishable by restriction of liberty for up to five years or deprivation of liberty for the same period.

3. Use of a document that is known to be counterfeit is punishable by a fine of up to 50 times the minimum income before tax, by rigorous imprisonment for up to six months or by restriction of liberty for up to two years.

In addition, article 366 establishes the liability of officials for including in official papers information known to be false or for other types of document forgery, including the preparation and issuance of documents known to be falsified.

Paragraph 4 of Resolution No. 1800 of 28 December 2001 of the Cabinet of Ministers "on measures for the implementation of United Nations Security Council resolution 1373 of 28 September 2001" stipulates that: "the State Committee on the Protection of the State Border, the State Customs Service, the Ministry of The Interior and the Ministry of Transport, with the participation of the Security Service, shall take steps to prevent the movement of terrorists and terrorist groups and shall establish for that purpose effective border controls and controls on issuance of identity papers and travel documents and shall intensify efforts to prevent counterfeiting, forgery or fraudulent use of papers".

In implementation of Security Council resolution 1373 (2001), the bill "on combating terrorism" envisages, inter alia, the establishment of effective control on issuance of identity papers and travel documents to prevent forgery and illicit use of the above-mentioned papers.

* * *

For the purpose of strengthening measures to protect the State border, including from unauthorized transit, decision No. 48/2002 "on measures to ensure necessary State border controls and to combat illegal migration", of 19 January 2002, and decision No. 532/2002 "on strengthening the security of the State border of Ukraine for the suppression of international terrorism, illegal migration and drug-trafficking", of 11 June 2002, of the National Security and Defence of Ukraine Council have been approved by decrees of the President of Ukraine. The most recent act inter alia establishes measures to protect the State border from unauthorized transit in remote areas.

In accordance with the Act "on the State border of Ukraine", which provides the legal basis for protection of the State border, the Cabinet of Ministers of Ukraine adopts measures within the limits of its authority to protect and defend the State border and territory of Ukraine.

Rail, vehicular, marine, river, steamship, air and other communications cross the State border of Ukraine at entry points specified by the Cabinet of Ministers of

Ukraine in accordance with Ukrainian legislation and international agreements to which Ukraine has acceded.

Persons, means of transport, merchandise and other goods crossing the State border of Ukraine are subject to border and customs controls.

The admittance of persons across the State border of Ukraine is effected by the border troops of Ukraine on the basis of valid papers permitting entry into or exit from Ukrainian territory. The admittance of means of transport, merchandise and other goods across the State border is effected on the basis of Ukrainian legislation and international agreements to which Ukraine has acceded.

Action of the organs of executive authority and the organs of local self-government on matters concerning compliance with State border regulations is coordinated by the State Committee on the Protection of the State Border in accordance with the Guidelines for the coordination of action of the organs of executive authority and the organs of local self-government on matters concerning compliance with State border regulations, approved by Resolution No. 48 of the Cabinet of Ministers, of 18 January 1999.

Accordingly, the State Committee on the Protection of the State Border inter alia conducts border controls (verification of passports and visas) and monitors compliance with State border regulations and measures to combat illegal migration and other violations of legislation on border matters.

The Council of Ministers of the Autonomous Republic of Crimea, local State authorities and organs of local self-government implement measures to ensure compliance with border regulations in the frontier zone and control of the border area.

On land, sea, rivers, lakes and other waters the State border troops of Ukraine, and in Ukrainian airspace the air-defence troops, are responsible for protecting the State border. In implementing protection measures, the border and air-defence troops are governed by this Act, by the Act "on the border troops of Ukraine", other Ukrainian legislation, international agreements to which Ukraine has acceded and instruments issued by competent Ukrainian authorities.

Persons guilty of violating or attempting to violate the State border, border regulations, frontier controls or regulations at State border transit points through illegal carriage or attempted carriage of merchandise, materials, papers and other items across the State border and other violations of State border legislation incur criminal, administrative or other liability in accordance with Ukrainian law.

Subparagraph 3 (a)

By article 9 of the Constitution of Ukraine, international agreements in force in Ukraine that the Verkhovna Rada has agreed to be binding are part of the national legislation of Ukraine.

In accordance with the Act "on international agreements to which Ukraine has acceded", ratification by Ukraine of international agreements involves the adoption of a special instrument of ratification by the Verkhovna Rada.

If implementation of an international treaty submitted for ratification requires the adoption by Ukraine of new legislation, the bills on ratification and amendments

to legislation are submitted to the Verkhovna Rada for consideration and are adopted simultaneously.

Subparagraph 3 (c)

The constitutional right of Ukrainian citizens not to be expelled to another State is guaranteed by article 25 of the Constitution of Ukraine.

The Convention on Legal Aid and Legal Relations in Civil, Family and Criminal Cases (concerning relations between member States of the Commonwealth of Independent States), signed in Minsk on 22 January 1993, provides the legal basis for the expulsion of individuals, as do relevant bilateral agreements on legal assistance and legal relations in criminal cases.

Article 10 of the Criminal Code of Ukraine provides for the extradition of persons charged with an offence, or prosecuted for committing an offence:

1. A citizen of Ukraine or stateless individual permanently resident in Ukraine who has committed crimes beyond the borders of Ukraine may not be extradited to a foreign State to be prosecuted or brought to trial.

2. Foreigners who have committed offences in the territory of Ukraine and are duly prosecuted on the basis of this Code may be transferred to their State of origin to serve a sentence for the offence committed, if such transfer is provided for in international agreements to which Ukraine has acceded.

3. Foreigners and stateless persons not permanently resident in Ukraine who have committed crimes beyond its borders and are located in Ukrainian territory may be extradited to a foreign State to be prosecuted and brought to trial or transferred to serve a sentence, if such extradition or transfer is provided for in international agreements to which Ukraine has acceded.

* * *

Matters concerning the extradition of offenders are also regulated:

1. At the multilateral level:

- By the European Convention on Extradition, of 1957, its additional protocol, of 1975, and its second additional protocol, of 1978.

2. At the bilateral level, provisions governing extradition are contained in bilateral treaties on legal assistance in civil and criminal cases:

- Agreement between Ukraine and the People's Republic of China on extradition, of 11 December 1998;
- Agreement between Ukraine and the Republic of Poland on legal assistance and legal relations in civil and criminal matters, of 24 May 1993;
- Treaty between Ukraine and the Republic of Lithuania on legal assistance and legal relations in civil, family and criminal cases, of 7 July 1993;
- Agreement between Ukraine and the Republic of Moldova on legal assistance and legal relations in civil and criminal matters, of 13 December 1993;
- Agreement between Ukraine and the Republic of Estonia on legal assistance and legal relationships in civil and criminal matters, of 15 February 1995;

- Agreement between Ukraine and Mongolia on legal assistance in civil and criminal matters, of 27 June 1995;
- Agreement between Ukraine and the Republic of Georgia on legal assistance and legal relationships in civil, family and criminal matters, of 9 January 1995;
- Agreement between Ukraine and the Republic of Latvia on legal assistance relations and legal relationships in civil, family and criminal matters, of 23 May 1995;
- Agreement between Ukraine and the Socialist Republic of Viet Nam on legal assistance and legal relations in civil and criminal cases, of 6 April 2000.

Furthermore, on the basis of legal succession in Ukraine pursuant to the Act "on legal succession of Ukraine" and the provisions of the Vienna Convention on Succession of States in Respect of Treaties, of 1978, bilateral international agreements of the former Union of Soviet Socialist Republics on legal assistance in civil and criminal cases containing provisions relating to the extradition of offenders remain in force:

- Treaty between the Union of Soviet Socialist Republics and the Democratic People's Republic of Korea concerning the provision of legal assistance in civil, family and criminal cases, of 16 December 1957;
- Treaty between the Union of Soviet Socialist Republics and Romania concerning the provision of legal assistance in civil, family and criminal cases, of 3 April 1958;
- Treaty between the Union of Soviet Socialist Republics and Albania concerning the provision of legal assistance in civil, family and criminal cases, of 30 June 1958;
- Treaty between the Union of Soviet Socialist Republics and Hungary concerning the provision of legal assistance in civil, family and criminal cases, of 15 July 1958;
- Treaty between the Union of Soviet Socialist Republics and Iraq on legal assistance, of 1973;
- Treaty between the Union of Soviet Socialist Republics and Tunisia on legal assistance in civil and criminal matters, of 26 June 1984;
- Treaty between the Union of Soviet Socialist Republics and Algeria on mutual legal assistance, of 23 February 1982;
- Treaty between the Union of Soviet Socialist Republics and Cuba on legal assistance in civil, family and criminal cases, of 28 November 1984.

Subparagraph 3 (d)

Ukraine is party to 11 of the 12 international multilateral treaties and protocols in the field of counter-terrorism adopted under the auspices of the United Nations, and is in the process of acceding to the twelfth treaty, namely the International Convention for the Suppression of the Financing of Terrorism. The instruments necessary for the ratification of this Convention will shortly be submitted to the Verkhovna Rada for consideration.

At the national level, the provisions of international treaties in force in Ukraine have been incorporated, inter alia, in the following acts:

- Act "on criminal investigation activities", of 18 February 1992;
- Act "on the Security Council of Ukraine", of 25 March 1992;
- Act "on nuclear energy use and radiation safety", of 8 February 1995;
- Act "on regulations governing garrison and guard service in the armed forces of Ukraine", of 24 March 1999;
- Act "on the legal regime in an emergency situation", of 16 March 2000;
- Act "on the defence of Ukraine" in the version of 5 October 2000;
- Act "on the physical defence of nuclear facilities, nuclear materials, radioactive wastes and other sources of ionizing radiation", of 19 October 2000;
- Act "on the intelligence services of Ukraine", of 22 March 2001;
- Criminal Code of Ukraine (2001);
- Merchant Shipping Code.

The 1999-2008 Programme for implementing the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction was approved by decree No. 50/99 of the President of Ukraine, of 25 January 1999.

Paragraph 7 of Cabinet of Ministers Resolution No. 1800, of 28 December 2001, "on measures for the implementation of United Nations Security Council resolution 1373 of 28 September 2001", instructs the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Defence, the Security Service and other central executive authorities to implement international treaties on the prevention and suppression of terrorist acts to which Ukraine is party and to take action against those guilty of committing such acts.

See also information under paragraph 3 (a).

Subparagraph 3 (e)

The list of offences provided for in the relevant international conventions obliging the State to extradite offenders has not been included in the bilateral agreements on air communications signed by Ukraine with 68 States.

In this matter, Ukraine is guided by the provisions of the international conventions it has ratified:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963 Tokyo Convention), which came into force in Ukraine on 29 May 1988;
- Convention for the Suppression of Unlawful Seizure of Aircraft (1970 Hague Convention), which came into force in Ukraine on 23 March 1972;
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971 Montreal Convention), which came into force in Ukraine on 29 March 1973.

See also information under paragraph 3 (a).

Subparagraph 3 (f)

The procedure governing the entry, transit and stay of foreigners and stateless persons in the territory of Ukraine is governed by the provisions of international treaties to which Ukraine has acceded, including the European Convention on Human Rights, of 1950, the Constitution of Ukraine, the Acts "on the legal status of aliens", "on refugees", "on immigration" and the Rules for the Entry of Aliens into Ukraine, their Departure from Ukraine and their Transit through its Territory (approved by decision of the Cabinet of Ministers of Ukraine of 29 December 1995).

By paragraph 5 of the Resolution of the Cabinet of Ministers of Ukraine, of 28 December 2001, "on measures for the implementation of United Nations Security Council resolution 1373 of 28 September 2001", the State Committee on Nationalities and Migration of Ukraine, the Ministry of the Interior and the Ministry of Justice, with the participation of the Security Service, are instructed inter alia to:

- Take steps to deny asylum or refugee status to persons who finance, plan, support or commit terrorist acts;
- Take measures, in conformity with legislation and the norms of international law, to ensure, before deciding to grant asylum or refugee status, that the asylum-seeker or person applying for refugee status has not planned, facilitated or participated in the commission of terrorist acts.

In order to establish which individuals seeking refugee status in Ukraine have planned, supported or committed terrorist acts, Ukraine's law enforcement agencies conduct investigations to determine possible involvement in terrorist organizations (checks on bank information, inquiries to Interpol and law enforcement agencies of other countries).

So as not to permit entry into Ukrainian territory of the State by persons involved in terrorist activity under the guise of education, medical treatment or official or private purposes, the Ministry of the Interior is involved in devising a single standard form of invitation for the entry of aliens into Ukraine and a mechanism for the timely agreement with internal affairs bodies of a procedure for issuing such invitations.

The Ministry of the Interior of Ukraine is also developing a databank for the documentation and recording (including documentation using automated fingerprint data) of persons who are detained for illegally crossing the State frontier and/or for staying illegally in the territory of Ukraine. This will make it possible to identify persons involved in the planning, furtherance or commission of terrorist acts through verification of the corresponding records by the law enforcement bodies of foreign States and the international police organizations.

In order to improve the legislative mechanisms with respect to the exclusion from Ukrainian territory of persons having terrorist connections who are not asylum-seekers, the law enforcement agencies of Ukraine are studying the issue of providing in the draft act "on arrangements for providing asylum in Ukraine to aliens and stateless persons" for the introduction of restrictions on the provision of asylum and the issuance of the corresponding documents to persons suspected of being involved in the activities of terrorist and extremist organizations. In this context,

consideration is also being given to the need to specify in detail the provisions of article 10 (conditions under which the status of refugee is not accorded) of the Act "on refugees".

Subparagraph 3 (g)

In accordance with article 3 of the European Convention on Extradition (entered into force for Ukraine on 9 June 1998), extradition shall not be granted if the offence in respect of which it is requested is regarded by the requested Party as a political offence or as an offence connected with a political offence. The same rule applies if the requested Party has substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons.

However, in accordance with the provisions of the European Convention on the Suppression of Terrorism (ratified by Ukraine on 17 January 2001), the provisions of all extradition treaties, including the European Convention on Extradition, are modified as between Contracting States to the extent that they are incompatible with it.

In that connection, in conformity with article 1 of the European Convention on the Suppression of Terrorism, Contracting States undertake not to regard terrorist offences as political offences or as offences connected with political offences or as offences inspired by political motives. The article contains a list of criminal acts of this kind (they include such serious offences as the seizure of aircraft, the taking of hostages, and the use of bombs, grenades, rockets, letter and parcel bombs if this use endangers persons). In addition, the Convention authorizes Contracting States not to regard as political offences acts of violence against the life, physical integrity or liberty of persons.

Under paragraph 5 of Resolution No. 1800 of the Cabinet of Ministers of Ukraine of 28 December 2001 "on measures for the implementation of United Nations Security Council resolution 1373 of 28 September 2001", the State Committee on Nationalities and Migration of Ukraine, the Ministry of the Interior and the Ministry of Justice, with the participation of the Security Service, are obliged, inter alia, to ensure, in conformity with the norms of international law and Ukrainian legislation, that asylum and refugee status are not abused by the perpetrators or organizers of terrorist acts or their accomplices, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition by interested States of persons suspected of involvement in terrorism.

Paragraph 4

The concerns expressed in paragraph 4 of Security Council resolution 1373 (2001) are addressed in the Regulations on State control of exports in Ukraine, approved by decree No. 117 of the President of Ukraine of 13 February 1998.

Under paragraph 5 of the Regulations, "international transfers of nuclear, biological and chemical weapons and of materials, equipment and technologies expressly intended for their production and transfers of goods that conflict with the international obligations of Ukraine, national security interests or the goals of

suppressing terrorism and maintaining mutually advantageous cooperation with the members of the international community in accordance with the generally recognized principles and norms of international law or for which there are no appropriate guarantees concerning the end-user shall be prohibited".

Taking into account the urgency of the problem of preventing the proliferation of chemical and biological weapons, the Cabinet of Ministers approved the Regulations on the system for control of the export, import and transit of goods capable of being used for the production of chemical, bacteriological (biological) and toxin weapons (decision No. 384 of 22 April 1997).

Under paragraph 8 of Resolution No. 1800 of the Cabinet of Ministers of Ukraine of 28 December 2001 "on measures for the implementation of United Nations Security Council resolution 1373 of 28 September 2001", the State Committee for the Protection of the State Border of Ukraine, the Ministry of the Interior, the State Customs Committee, the Ministry of Transport, the State Tax Administration and the Ministry of Defence are instructed, inter alia, to notify immediately the Security Service, other law enforcement agencies of Ukraine and the State Export Control Service of Ukraine if they discover that an importer of goods and services may have links with international terrorist groups, for the purpose of verification and of taking measures to halt actual exports.

Pursuant to paragraph 9 of this Resolution, the Security Service of Ukraine, the State Customs Service, the State Committee for the Protection of the State Border of Ukraine, the State Export Control Service, the State company for the export and import of military and special products and services (Ukrspetseksport), the Ministry of Industrial Policy, the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of the Interior, the Ministry of Economic Affairs and European Integration and the Ministry of Transport are obliged to take additional steps to strengthen control of international transfers of military and dual-use goods which could be used to commit terrorist acts. In addition, the State Export Control Service is instructed, when considering applications for the export, import or transit through Ukrainian territory of military or dual-use goods, if necessary with the participation of the Security Service and the Ministry of Foreign Affairs, to check whether the parties to contracts for such international transfers are involved with terrorist groups.

Under paragraph 10 of the aforementioned Resolution of the Cabinet of Ministers of Ukraine, the Ministry of Industrial Policy, the Ministry of Defence, the Ministry of the Interior, the Security Service, the Ministry of Health, the National Academy of Science, the Academy of Medical Science, the State Committee for Nuclear Regulation, the Ministry of Fuel and Energy and the Ministry of Agricultural Policy are instructed to take steps to increase the level of protection of vulnerable facilities under the physical protection system and to complete an inventory of articles, materials, equipment and technology which could be used to produce weapons of mass destruction and also conventional weapons and means of delivery, so as to prevent terrorist groups from gaining access to them.

The draft act "on State control of international transfers of military and dual-use goods", elaborated by the State Export Control Service and submitted by the Cabinet of Ministers for consideration to the Supreme Council of Ukraine, also includes counter-terrorism-related obligations.

Ukraine has established a broad base of treaties and legislation with respect to international cooperation and coordination of efforts to combat effectively the challenges and threats referred to in paragraph 4 of Security Council resolution 1373 (2001).

Thus, the Ministry of the Interior alone is currently the subject of 160 international agreements and protocols with more than 40 countries in the area of international cooperation in combating crime (including terrorism).

These international legal instruments provide for appropriate exchanges of information on issues relating to operational and official activities and the rendering of legal assistance in criminal matters.

In addition, in order to improve the exchange of information with the law enforcement agencies of foreign States, the Ministry of the Interior regularly organizes multilateral and bilateral international working meetings.

The Fifth Meeting of the Ministers of the Interior/Public Order of the States Members of the Organization of the Black Sea Economic Cooperation (BSEC) was held in March 2002, in Kiev, in the course of the implementation of the measures envisaged in the Programme of the Ukrainian Presidency of BSEC. The Additional Protocol to the Agreement among the Governments of the Black Sea Economic Cooperation participating States on Cooperation in Combating Crime, in particular in its Organized Forms was signed at the meeting. The Additional Protocol provides for the creation of a network of liaison officers on combating crime.

Under paragraph 11 of Resolution No. 1800 of the Cabinet of Ministers of Ukraine of 28 December 2001 "on measures for the implementation of United Nations Security Council resolution 1373 of 28 September 2001", the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Justice and the Security Service are instructed, inter alia, within the limits of their authority, to monitor the counter-terrorism measures which Ukraine is implementing in association with international organizations.

Other matters

One element of the organizational structure of the administrative machinery ensuring the implementation of Security Council resolution 1373 (2001) is the Security Service.

The system and organization of the Security Service are established in the Act "on the Security Service of Ukraine".

The Security Service's system comprises the Central Directorate of the Security Service, the regional bodies under its authority, the Security Service of the Autonomous Republic of Crimea, military counter-intelligence agencies, military units and the training, research and other establishments of the Security Service.

The Central Directorate of the Security Service is responsible for national security and coordinates and monitors the activities of the Security Service's other organs. It consists of the office of the Chairman of the Security Service and functional subdivisions: intelligence, counter-intelligence, military counter-intelligence, protection of national statehood, suppression of corruption and organized crime, information and analysis, operations and technology, operational documents, investigations, Government liaison, personnel administration,

administrative and economic, financial, military medical, and others in accordance with the Security Service's organizational structure.

In order to perform the tasks entrusted to it, the Security Service may establish contacts with the security agencies of foreign countries and cooperate with them on the basis of the norms of international law and the relevant treaties and agreements.

Another component of the Ukrainian administrative machinery ensuring that the threats and challenges posed by terrorism are counteracted is the Ministry of the Interior.

The organizational structure of the police force is established in article 7 of the Act "on the police force". In accordance with this Act, the police force is a unified system of agencies within the structure of the Ministry of the Interior which performs (on the basis of agreements) administrative, preventive, operational-search, criminal-procedure, executive and security functions.

The police force comprises the following subdivisions: the criminal investigation service, the public order force, the transport police, the State automobile inspectorate, the security police and the special police.

The Ministry of the Interior is in charge of the entire Ukrainian police force.

In the Autonomous Republic of Crimea, the police force is headed by the Deputy Minister of the Interior of Ukraine, who is the chief of the Central Directorate of the Ministry of the Interior in Crimea; with the exception of the transport police, in regions, cities and districts, the police force is headed by the chief of the central directorate or directorate of the Ministry of the Interior in the region or city or by the chief of the city or district department (section) of the central directorate or directorate of the Ministry in the region or city respectively.

The State Department for Matters relating to Citizenship, Immigration and Registration of Natural Persons, established pursuant to Resolution No. 844 of the Cabinet of Ministers of Ukraine of 14 June 2002, coordinates the work of the executive bodies involved with organizing immigration-related activities and combating illegal migration. This Department is a Government body of the State administration functioning within the Ministry of Internal Affairs of Ukraine and under its authority.

Decree No. 1199 of the President of Ukraine of 10 December 2001 "on measures to prevent the legalization (laundering) of proceeds of crime" was adopted in order to improve the system of financial control. In fulfilment of the requirements of this decree, the State Department for Financial Monitoring — a Government body of the State administration functioning within the Ministry of Finance — was established by Resolution No. 35 of the Cabinet of Ministers of Ukraine of 10 January 2002 within the structure of the Ministry of Finance.

In order to ensure the efficient flow of information on the proceeds of crime, the Cabinet of Ministers of Ukraine passed Resolution No. 700 of 29 May 2002 "on definition of the criteria for classifying financial transactions as suspicious and unusual", which defines the procedure for effecting financial control of substantial, suspicious or unusual transactions performed by financial institutions, the implementation by financial institutions of certain internal procedures to prevent the legalization (laundering) of proceeds of crime, and the transmittal of this

information and copies of the documentation to the relevant State agencies for the application of the measures stipulated in the applicable legislation.

In accordance with the Act "on the State Tax Service of Ukraine", the organs of the State Tax Service include appropriate specialized subdivisions for combating tax offences (tax police).

Depending on the number of taxpayers and other local conditions, the State Tax Administration may establish inter-district (covering two or more districts) or unified (covering a city and a district) municipal tax inspection offices and appropriate subdivisions of the tax inspectorate within them.

The tax inspectorate is composed of special subdivisions for combating tax offences, which function within the structure of the corresponding organs of the State Tax Service. The tax inspectorate monitors compliance with the tax laws, as well as performing operational-search, criminal-procedure and protection functions.

The structure of the tax police is as follows:

- Tax Police Central Directorate, Tax Police Investigations Office, Office for the Suppression of Corruption in the Organs of the State Tax Service of the State Tax Administration;
- Tax police directorates, tax police investigations departments and sections for the suppression of corruption in the organs of the State Tax Service of the corresponding tax administrations in the Autonomous Republic of Crimea, the regions, and the cities of Kiev and Sevastopol;
- Tax police sections and tax police investigations departments (groups) of specific district, city, city district, inter-district and unified State tax inspection offices.

The tax inspectorate is headed by the chief of the tax police, who is the First Deputy Head of the State Tax Administration.

The tax inspectorates in the State tax administrations, the Autonomous Republic of Crimea, the regions, and the cities of Kiev and Sevastopol are headed by the chiefs of the tax police directorates, the First Deputy Heads of the corresponding State tax administrations.

Ukraine's customs agencies are entrusted with the direct handling of customs matters. The customs agencies' system consists of the State Customs Service, regional customs houses, customs houses, specialized customs departments and organizations, institutions and training establishments.

In accordance with Ukrainian legislation, regional customs houses are established by the Cabinet of Ministers. Customs houses, specialized customs departments and organizations, institutions and training establishments are established, reorganized and abolished by the State Customs Service, subject to approval by the Ministry of Finance.

The structure of the Border Troops is defined in the Act on "the Border Troops of Ukraine".

The central administrative organ of the Border Troops, the State Committee for the Protection of the State Border, is a central executive body. The Statute of the State Committee for the Protection of the State Border is approved by the President.

Within the structure of the State Committee is an intelligence agency, which, in accordance with the law, conducts intelligence activities aimed at safeguarding the State's interests in the areas of border and immigration policy and in other areas relating to the protection of the State border and the sovereign rights of Ukraine in its exclusive (maritime) economic zone and on the continental shelf.

The head of the State Committee for the Protection of the State Border is the Commander of the Border Troops. He is appointed to and dismissed from his post by the President in conformity with the Constitution.

The regional administrative organs of the Border Troops are the border troop commands, which are headed by the commanders of the military sectors.

The organs guarding the State border are forces and units of the Border Troops called on to perform tasks assigned to the Border Troops which relate to the protection of the State border of Ukraine and the preservation of its sovereign rights in the exclusive (maritime) economic zone.

The support organs of the Border Troops are the corresponding forces, units, institutions, enterprises and training establishments through which material and technical, medical, human resources and other types of support for the activities of the Border Troops are directly provided.

The Ministry of Transport, through its structural subdivision, the State Department of Aviation, implements the strategy for the suppression of terrorism on aircraft by taking preventive measures to avert acts of terrorism, sabotage and other acts of unlawful interference with civil aviation.

Practical activities to combat acts of unlawful interference with civil aviation are conducted by the aviation security services established within airports and airlines.

The aviation security services cooperate, in their activities, with the subdivisions of the competent body specializing in counter-terrorism and with the subdivisions of the agencies performing police, border and customs functions in airports.

Cooperation is undertaken on the basis of the organizational-administrative documents of the Ministry of Transport and of other executive bodies.

See also the information under paragraph 2 (b).